

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of

Implementation of the Local Competition  
Provisions in the Telecommunications Act of 1996

Interconnection Between Local Exchange Carriers  
and Commercial Mobile Radio Service Providers

CC Docket No. 96-98

CC Docket No. 95-185

REPLY COMMENTS OF BELL ATLANTIC<sup>1</sup>

AT&T, MCI and their cronies have a very clear objective: they want to pay less for the access services they currently purchase from local exchange carriers solely to handle long distance calls.<sup>2</sup> They are trying to avoid paying the access charges set by the Commission that contribute to the cost of maintaining the local exchange carrier's joint use network. This end run around the Commission's access reform decisions is contrary to sound public policy and the law.

First, the Commission has already determined the rates interexchange carriers should pay for the exchange access services they currently receive. That decision was made in Docket No. 96-262 after careful consideration of the public policy issues the

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<sup>1</sup> The Bell Atlantic telephone companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; Bell Atlantic-West Virginia, Inc.; New York Telephone Company; and New England Telephone and Telegraph Company.

<sup>2</sup> See Comments of AT&T, MCI, WorldCom, KMC, LBC, and CompTel.

interexchange carriers raise here. The Commission decided that access charges should be market based and should contribute to the cost of the local exchange carriers' networks. The interexchange carriers are now trying to circumvent the Commission's prior access charge rulings through a back door.

Second, reducing the rate interexchange carriers pay for exchange access service will not increase local competition for these services. Interexchange carriers are not independent providers of exchange access services for their own local service customers. They are simply purchasers of exchange access services that they use to produce interexchange services. Reducing the rate interexchange carriers pay for exchange access will neither increase the number of local competitors providing exchange access services nor make the exchange access market more competitive. In fact, it will likely have the opposite effect by making it less financially attractive for companies to invest in facilities to provide exchange access services.

Third, the interexchange carriers' argument is based on the completely false premise that access services and unbundled network elements are the same thing.<sup>3</sup> In the *Local Competition Order*, the Commission found that "[w]hen interexchange carriers purchase unbundled elements from incumbents, they are not purchasing exchange access 'services'. They are purchasing a different product, and that product is the right to exclusive access or use of an entire element." *First Report and Order* at ¶ 358. The

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<sup>3</sup> For example, WorldCom asserts that "interexchange carriers . . . are entitled to purchase dedicated transport facilities or shared transport facilities and tandem switching pursuant to interconnection agreements rather than through exchange access tariffs." WorldCom Comments at 4.

Eighth Circuit agreed with the Commission's determination that access services are different from unbundled network elements.

Interconnection and unbundled access are distinct from exchange access because interconnection and unbundled access provide a requesting carrier with a direct hookup to and extensive use of an incumbent LEC's local network that enables a requesting carrier to provide local exchange services, while exchange access is a service that LECs offer to interexchange carriers without providing the interexchange carriers with such direct and pervasive access to the LECs' networks and without enabling the IXC to provide local telephone service themselves through the use of the LECs' networks. *Iowa v. FCC*, No. 96-3321, slip op. at n.20 (8<sup>th</sup> Cir. July 18, 1997) ("*Iowa*") (emphasis added).

The interexchange carriers never acknowledge the difference between network elements and access services.

In addition, Section 251(c)(3) does not require the Commission to make exchange access transport services available to interexchange carriers at unbundled network element prices. As the Eighth Circuit explained, "this provision only indicates *where* unbundled access may occur . . . ." *Iowa*, slip op. at 135. Section 251(c)(3) specifically allows requesting telecommunications carriers "access to" unbundled network elements at any technically feasible point, but does not provide for interconnection of those elements to the local exchange carrier's network. If a requesting carrier wishes to connect unbundled network elements to an incumbent LEC's network, it must do so pursuant to Section 251(c)(2), but only "for the transmission and routing of telephone exchange service and exchange access." 47 U.S.C. § 251(c)(3). As the Commission has itself found, "an IXC that requests interconnection solely for the purpose of originating or terminating its *interexchange* traffic, not for the provision of telephone exchange service and exchange access to others, on an incumbent LEC's network is not entitled to receive

interconnection pursuant to section 251(c)(2).” *First Report and Order* at ¶ 191. But where the interexchange carrier satisfies the requirement of providing local service to its customers, it is entitled to purchase network elements, interconnect them to the incumbent LEC’s network, and use them “for the provision of a telecommunications service . . . .” 47 U.S.C. § 251(c)(3).

Finally, the issue of whether shared transport is even a network element is on appeal. The Eighth Circuit recently ruled that “Section 251(c)(3) does not permit a new entrant to purchase the incumbent LEC’s assembled platform(s) of combined network elements (or any lesser existing combination of two or more elements) in order to offer competitive telecommunications services.”<sup>4</sup> According to the Commission, shared transport is a combination of several network elements –i.e., “transport between end offices, between tandems, and between tandems and end offices.” *Third Report and Order* ¶ 25. And if shared transport is not an unbundled element, then it cannot be purchased by long distance carriers at unbundled element prices solely to originate or terminate interexchange traffic.<sup>5</sup>

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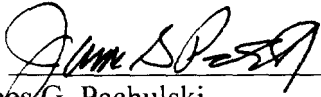
<sup>4</sup> *Iowa*, Order on Petitions for Rehearing, slip op. at 2 (8<sup>th</sup> Cir. Oct. 14, 1997) (emphasis added).

<sup>5</sup> As a condition of its merger, Bell Atlantic committed to provide shared transport as an unbundled network element “for use in providing telephone exchange and exchange access service.” Ex Parte Letter dated July 19, 1997 from Thomas J. Tauke of NYNEX and Edward D. Young, III of Bell Atlantic to Kathleen Levitz, Deputy Bureau Chief, Common Carrier Bureau, Federal Communications Commission at page 9. Bell Atlantic will comply with this commitment, but the commitment does not extend to making shared transport available to long distance carriers solely to originate or terminate interexchange services.

CONCLUSION

A few interexchange carriers are attempting to make an end run around the Commission's access charge rulings by requesting exchange access services at unbundled element prices. The Commission should reject their ploy and continue to follow its prior decisions that network elements cannot be used by interexchange carriers solely to handle interexchange traffic. Those precedents are fully supported by sound public policy and by the law.

Respectfully submitted,

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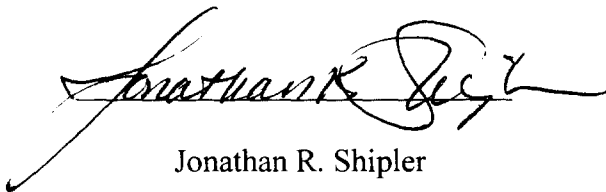
Edward D. Young, III

Michael E. Glover

Dated: October 17, 1997

CERTIFICATE OF SERVICE

I hereby certify that on this 17<sup>th</sup> day of October, 1997, a copy of the foregoing "Reply Comments of Bell Atlantic" was served by first class U.S. mail, postage prepaid, on the parties listed on the attached service list.



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